

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Bail Appl..No. 7751 of 2007()

AGAINST THE ORDER IN LP 126/2007 IN
ST.1999/2005 of J.M.F.C.-I, KANNUR
.....

PETITIONER/ACCUSED

MUHAMMED SUHAIB, BENARAS SAREEVALA,
HAJI BUILDING, 1ST FLOOR, RAJEEV GANDHI ROAD,
KANNUR.

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON
SRI.M.MUHAMMED SHAFI

RESPONDENTS:

-
1. O.K.RAKESH, AGED 29 YEARS,
S/O.NARAYANAN, KANADATH HOUSE,
P.O.AZHICKAL SOUTH, KANNUR DISTRICT.
 2. STATE OF KERALA, REPTD. BY THE STATION
HOUSE OFFICER, TOWN POLICE STATION, KANNUR
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 14/12/2007, A/W. BA 7753 & CONNECTED CASES, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.Nos. 7751, 7753, 7754,
7755 of 2007

Dated this the 14th day of December, 2007

ORDER

The petitioner in these four applications faces indictment in four different prosecutions, all under Section 138 of the N.I. Act and all initiated by the same complainant, i.e. the first respondent herein. Cognizance was taken long earlier. The petitioner has not entered appearance so far. Consequently the cases have been transferred to the list of long pending cases. Coercive processes have been issued against the petitioner. The petitioner now finds such coercive processes issued by the learned Magistrate chasing him.

2. According to the petitioner he is absolutely innocent. His absence was not willful or deliberate, but on account of reasons beyond his control. No notice, summons or processes of the court has ever been served on the petitioner so far. He is willing to surrender before the learned Magistrate, but he

apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. Petitioner is not a person hailing from this area. He hails from U.P. He apprehends that he may be taken into custody before he reaches the court and subjected to unnecessary harassment. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George v. Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner undertakes that the petitioner shall appear before the learned Magistrate on or before 31.12.2007. In the peculiar facts and circumstances of this case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 31.12.2007. On or before that date, the petitioner shall appear before the learned Magistrate and seek regular bail.

6. Hand over the order.

(R. BASANT)
Judge

tm

B.A.Nos. 7751/07 & connected cases